

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18-CR-143

UNITED STATES OF AMERICA)
)
v.)
)
SHANE MCKINLEY SWIMMER)

ORDER

This matter is before the Court on correspondence received from the Metropolitan Correctional Center (“MCC”). Docs. 36, 37.

On September 22, 2020, the Court granted the Government’s Motion for Examination and ordered that Defendant be examined pursuant to 18 U.S.C. § 4242. Docs. 32, 33. For the purposes of such an examination, and pursuant to 18 U.S.C. § 4247(b), a defendant may be committed for a reasonable period, but not to exceed 45 days. Further, under § 4247(b), the director of the facility where the examination is conducted may apply for a reasonable extension, not to exceed 30 days, upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

According to the correspondence, Defendant was designated to MCC on October 8, 2020, and placed into quarantine until November 2, 2020. Doc. 37. The correspondence further states that MCC typically requests 45 days from the date a defendant arrives to conduct an evaluation but, in light of the current pandemic, MCC is requesting an additional 30 days, as permitted by

statute.

However, MCC specifically requests an extension of time to conduct the evaluation until January 16, 2021. That is, MCC appears to be calculating the initial commitment period (of up to 45 days) as beginning on the date Defendant was released from quarantine (November 2, 2020), not the date he arrived at the facility (October 8, 2020). Forty-five days from the date of Defendant's arrival at MCC would be November 22, 2020; an additional 30 days would be December 22, 2020.

Consequently, and pursuant to 18 U.S.C. § 4247(b), the undersigned will construe the correspondence as being a request from MCC that the time for Defendant's evaluation be extended to December 22, 2020. Any responses either party may wish to make with respect to MCC's request shall be filed no later than NOON on Tuesday, November 24, 2020. The clerk will also be respectfully directed to transmit a copy of this Order to MCC.

It is so ordered.

Signed: November 20, 2020

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

